



September 10, 2013

Rep. Kevin Cotter and Rep. Phil Cavanagh
Judiciary Committee
Michigan House of Representatives
Rm. 521
House Office Building
Lansing, Michigan 48909

RE: HB 4694-4697 Establishment of a Mental Health Court

Dear Representatives Cotter and Cavanagh:

Please share this letter with members of the Judiciary Committee as part of the hearing set for 9 a.m., Thursday, September 12, 2013 before the committee. Our concerns, previously expressed in a June 5, 2013 letter to this committee, continue. I regret that a representative of our group cannot attend to testify in person.

The Michigan Coalition for Open Government opposes this legislation in that it creates yet another secret court system in Michigan with no method for evaluating the successes or failures and hiding from public view and review the activities and decision making of the district and circuit court judges.

Historically in Michigan and throughout the United States, our courts have been open, transparent and accountable to the communities they serve. Secrecy undermines this, inviting collusion and misconduct. Though without question, most of the activities of the judges and the court systems would be honorable, the chance for even one judge to misuse the law and allow a friend, a relative or an "attractive" defendant to seek the secrecy of the mental health court as an excuse for criminal behavior makes this a dangerous path for Michigan to follow. Judges are human and make mistakes. Misconduct forced the recent resignation and ultimate guilty plea for a Michigan Supreme Court Judge now serving time in a federal prison. The state Judicial Tenure Commission this week recommended the removal from the bench of a Wayne County Circuit Court Judge.

Mental health issues are at the root of the recent mass shootings at schools (Newtown), colleges (Virginia Tech) and even Congressional town hall meetings (Arizona/Giffords). If the individuals

involved were in Michigan and had any brushes with law enforcement with treatment in the secret mental health courts, these activities would be hidden from public knowledge. This is a significant public safety risk.

The proposed legislation not only hides the initial information from the public but goes even further by hiding the data collected on its successes, its failures, its rate of recidivism. No one, not even members of the House Judiciary Committee in the future, will be provided the data. The sole keeper of the information with the court system's SCAO.

Michigan courts operate under the principle and legal mandate of MCL 600.1420: "***The sittings of every court within this state shall be public*** except that a court may, for good cause shown, exclude from the courtroom other witnesses in the case when they are not testifying and may, in actions involving scandal or immorality, exclude all minors from the courtroom unless the minor is a party or witness. This section shall not apply to cases involving national security." (Emphasis added.) MCL 600.1420; MSA 27A.1420. None of these exceptions would cover the establishment of a secret mental health court system and would undermine the historic and fundamentally important role of the courts.

The Michigan Coalition for Open Government is a tax exempt, Michigan nonprofit corporation founded to promote and protect transparency and accountability in the governments of the people, by the people and for the people at the local, state and federal levels.

This proposed legislation, HB 4694-4697, may on its face appear to be a humane approach to dealing with criminal violations by the mentally ill. However, hiding from the citizens of Michigan and the executive and legislative branches of the State the operations of any facet of its court system violates separation of powers, violates established law, violates the public mandate to serve all the citizens of the state, reverses the historical transparency of the court system and threatens the public safety, health and welfare of the people of this state.

The Michigan Coalition for Open Government recommends this proposed legislation creating a secret mental health court system be rejected unless all secrecy and confidentiality provisions be removed.

Sincerely,



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